

**REGULAR PIQUA CITY COMMISSION MEETING
TUESDAY, FEBRUARY 1, 2011
7:30 P.M. – COMMISSION CHAMBER – 2nd FLOOR
201 WEST WATER STREET
PIQUA, OHIO 45356**

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

REGULAR CITY COMMISSION MEETING

A. CONSENT AGENDA

- a. APPROVAL OF MINUTES
Approval of the minutes from the January 18, 2011 Regular City Commission Meeting

B. OLD BUSINESS

- a. ORD. NO. 1-11 (3rd Reading)
An Ordinance amending Ordinance No. 33-66, relating to the Municipal Income Tax

C. NEW BUSINESS

- a. RES. NO. R-11-11
A Resolution authorizing the City Manager to enter into an agreement with the Board of Miami County Commissioners for the design, right-of-way and construction of the County Road 25-A Phase II Reconstruction project
- b. RES. NO. R-12-11
A Resolution awarding a contract for the purchase of a Case 580SN Loader Backhoe for the Power System
- c. RES. NO. R-13-11
A Resolution awarding a contract for the purchase of transformers for the Power System

D. OTHER

- Eurasian Watermilfoil 2010 Progress Report – Mrs. Amy Havenar
- Economic Development Update – Mr. Bill Murphy
- Monthly Reports – December 2010

E. ADJOURNMENT

**MINUTES
PIQUA CITY COMMISSION
Tuesday January 18, 2011
7:30 P.M.**

Piqua City Commission met at 7:30 P.M. in the Municipal Government Complex Commission Chambers located at 201 W. Water Street. Mayor Fess called the meeting to order. Also present were Commissioners Vogt, Martin, Terry, and Wilson. Absent: None.

OATHS OF OFFICE – PIQUA FIRE DEPARTMENT

Assistant Fire Chief Vincent P. Ashcraft

Fire Captain F. John Kendall, Jr.

Law Director Stacy Wall administered the Oaths of Office to Assistant Fire Chief Vincent P. Ashcraft and Fire Captain F. John Kendall, Jr.

INTRODUCTION OF WESTERN OHIO TV CONSORTIUM (WOTVC) EXECUTIVE DIRECTOR

Mr. Guy Fogle

City Manager Enderle gave a brief introduction of Guy Fogle, Executive Director of the new Western Ohio TV Consortium (WOTVC).

Mr. Fogle gave a brief overview of the plans for the new Channel 5 in coming months.

REGULAR CITY COMMISSION MEETING
Consent Agenda

Approval of Minutes

Approval of the minutes from the January 4, 2011 Regular Piqua City Commission Meeting

Moved by Commissioner Martin, seconded by Commissioner Vogt, that the minutes of the January 4, 2011 Regular Piqua City Commission Meeting be approved. Voice vote, Aye: Wilson, Fess, Martin, Terry, and Vogt. Nay: None. Motion carried unanimously.

OLD BUSINESS

ORD. NO. 35-10 (3rd Reading)

An Ordinance to vacate a public alley right of way

City Manager Enderle stated this is the third reading on the purchase of the property located on either side of the subject alley way and plans to consolidate the parcels into one tract of land. The purpose for combining the parcels is to create one tract of land for the construction of the Power System Service Center

Public Comment

No one came forward to speak for or against Ordinance No. 35-10.

Moved by Commissioner Vogt, seconded by Commissioner Martin, that Ordinance No. 35-10 be adopted. Roll call, Aye: Wilson, Vogt, Martin, Terry, and Fess. Nay: None. Motion carried unanimously. Mayor Fess then declared Ordinance No. 35-10 adopted.

ORD. NO. 1-11 (2nd Reading)

An Ordinance amending Ordinance No. 33-66, relating to the Municipal Income Tax

City Manager Enderle stated this is the second reading for Ordinance No. 1-11 to provide funds for the purpose of permanent improvements, new equipment, extension and enlargement of municipal services and facilities, capital improvements and operating expenses of the City of Piqua and is just a housekeeping item.

Public Comment

Bill Shinall, New Haven Rd. came forward and inquired if the funds from this tax were the same funds as in a previous ordinance that was passed regarding the license fees.

City Manager Enderle explained the difference between the two funds stating the fees from the license fee collected go into Street Fund 101, and the fees collected from the Municipal Income Tax Fund go into Street Fund 103. These funds are strictly for capital improvements and no maintenance comes out of this fund, said City Manager Enderle.

Ordinance No. 1-11 was given a second reading.

RES. NO. R-6-11

A Resolution authorizing the City Manager to execute a labor contract with the Fraternal Order of Police (Civilians), Ohio Labor Council, Inc.

City Manager Enderle stated Resolution No. 2-11 is authorizing the City to execute a Labor Contract with the Fraternal Order of Police (Civilians), Ohio Labor Council, Inc. to be in effect from January 1, 2011 through December 31, 2013.

Public Comment

No one came forward to speak for or against Resolution R-6-11.

Moved by Commissioner Martin, seconded by Commissioner Vogt, that Resolution No. R-6-11 be adopted. Roll call, Aye: Wilson, Vogt, Martin, Terry, and Fess. Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-6-11 adopted.

RES. NO. R-7-11

A Resolution appointing Julia (Judy) Terry to the Grow Piqua Now Board

City Manager Enderle stated Resolution No R-7-11 appoints Judy Terry to the Grow Piqua Now Board for a term of (3) years to expire on December 31, 2013.

Public Comment

No one came forward to speak for or against Resolution No. R-7-11.

Moved by Commissioner Wilson, seconded by Commissioner Martin, that Resolution No. R-7-11 be adopted. Voice vote, Aye: Wilson, Vogt, Martin, Terry, and Fess. Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-7-11 adopted.

RES. NO. R-8-11

A Resolution appointing Sharon Lyons to the Energy Board

City Manager Enderle stated this Resolution appoints Sharon Lyons to the Energy Board to fill the unexpired term of Brian Kellogg for a term to expire on February 28, 2015.

Public Comment

No one came forward to speak for or against Resolution No. 8-11.

Moved by Commissioner Terry, seconded by Commissioner Wilson, that Resolution No. R-8-11 be adopted. Voice vote, Aye: Martin, Terry, Fess, Wilson, and Vogt. Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-8-11 adopted.

RES. NO. R-9-11

A Resolution of Appreciation for the public service of Rick Maggert as a City Employee

City Manager Enderle stated this is a Resolution of Appreciation for Rick Maggert for his thirty-five plus years of service in the Piqua Fire Department. Mr. Maggert held the position of Assistant Fire Chief for over (18) eighteen years, and also served as Acting Fire Chief for (1) one year until the new fire Chief was chosen.

Mayor Fess read the proclamation and presented it to Fire Chief Mike Rindler, who accepted the proclamation for Mr. Maggert.

Mayor Fess stated Mr. Maggert waited until his retirement to have a much-needed back surgery, and was unable to attend the City Commission Meeting.

Public Comment

Jean Franz, Parkridge Place, came forward and stated her husband Fred Franz was on the Fire Department when Mr. Maggert started his career, and they wanted to wish him the best in his retirement.

Moved by Commissioner Martin, seconded by Commissioner Vogt, that Resolution No. R-9-11 be adopted. Roll call, Aye: Wilson, Vogt, Martin, Terry, and Fess. Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-9-11 adopted.

RES. NO. R-10-11

A Resolution to request the Miami County Board of Elections to set a Special Election on March 1, 2011 for the purpose of a Recall Election for Commissioner, Lucinda L. Fess, Commissioner William Vogt, Commissioner Joe Wilson, and Commissioner Julia Terry

City Manager Enderle stated this is a vote by the Commission set by the Charter, if there are enough significant signatures the Commission has between forty and sixty days to set an election date. We are suggesting March 1st, 2011, which would give everyone the opportunity to prepare for and be ready to vote. This is also the first Tuesday of the month, which is the usual day for an election and should be easy to remember, stated City Manager Enderle.

Mayor Fess stated there has been some question as to how the Commissioners can vote on something that involves them.

Law Director Stacy Wall explained there has been some questions asked if there is a conflict of interest with four of the Commissioners being the subject of the Resolution and voting on it. Ms. Wall stated it is her legal opinion there is no conflict of interest. Section 122 of the Piqua Charter mandates the Commission set the election date, the Commissioners are not deciding on whether or not there is a recall election. The only thing the Commissioners are doing is setting the date for the recall election. The recall election is automatic once the signatures are verified by the Board of

Elections, and the necessary 1000 required signatures were found valid on each of the four petitions.

Public Comment

Dean Ward, Lambert Drive, came forward and stated he was very much in support of the four current Commissioners and trusts the democratic process that put them in office. Mr. Ward asked if it would be possible to retract the recall and let the process take place as should be. Mr. Ward further stated he would like for all citizens to work together to solve these issues in the future.

Mayor thanked Mr. Ward for his comments, and stated unfortunately it is too late to stop the process at this time.

Hal Heiner, Lambert Drive, came forward and voiced his concern over the recall election costs to the City, and asked if it would be possible for him to make a donation to help defray the costs of the election?

Finance Director Cynthia Holtzapple explained that contributions can be made to any fund within the City, and the cost of the election will be borne by the General Fund. Please make a note on the check the reason for the donation, said Ms. Holtzapple.

Jim Brown, Park Avenue, came forward and stated to the four Commissioners listed on the recall that he feels, and he also feels the majority of the citizens of Piqua the Commissioners have served honorably, faithfully, and tried to do the right thing on behalf of the city. Mr. Brown said he appreciates it and their dedication to the City of Piqua.

Mayor Fess stated she appreciates all of the comments.

Commissioner Terry stated she felt it was ironic that the Commissioners have to set the date for their own recall. Let's put a positive spin on this by setting the date and getting the recall behind us, and come out on the other side better by having more cooperation within the city, and do more positive things. The Positive Promoting Piqua organization came out of this, and is a very positive movement, so let's move forward and put all this behind us, said Commissioner Terry.

Moved by Commissioner Terry, seconded by Commissioner Wilson, that Resolution No. R-10-11 be adopted. Roll call, Aye: Vogt, Martin, Terry, Fess, and Wilson. Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-10-11 adopted.

Mayor Fess stated when the Commissioners were sworn in they pledged to support the Charter of the City of Piqua as part of their oath, and the Charter indicates this is what we need to do, so let's get the recall election behind us and move forward. The PPP Organization is not just a one-time thing; they intend to stay together to work on getting the negativity out of the City of Piqua. Mayor Fess encouraged citizens to get out and vote on March 1 in the Special Election, stating it may be one of the most important things that has happened in the City of Piqua.

OTHER

Public Comment

Brad Boehringer, Mound Street, came forward and encouraged citizens to vote for the Piqua Catholic Schools Pepsi Challenge. Mr. Boehringer also voiced his comments on the upcoming recall election and asked citizens to vote with their hearts, and also thanked the Positively Promoting Piqua organization for their support. Mr. Boehringer said he agrees with the democratic process stating we voted the current Commissioners in office; we should wait until the next regular election to make any change.

Russ Fashner, Forrest Avenue, came forward and read a prepared statement concerning the Fire Department. Mr. Fashner requested a public records request for a report that was written concerning part-time volunteer Fire Departments. Mr. Fashner stated he wanted to clarify that he had heard about the report on the study from the community, not the Fire Department, and encouraged the community to get a copy of the report.

Mayor Fess stated she wanted to clarify that Mr. Fashner was not a member of the P.O.I.N.T. Organization, but was one of the circulators of the Recall Petitions. Mr. Fashner agreed with the Mayor's statement.

Mayor Fess stated the City has not laid off any firefighters.

Mr. Fashner stated were two firefighters not told they would be laid off on August 31, 2010?

City Manager Enderle explained it was stated if the money was not in the budget there would be the possibility for the layoff of two firefighters as of 8-31-10. But this did not happen. No one was notified; the discussion was that was one of the cuts they were considering unless they could come up with the dollars. It then came into dispute whether the promise to the firefighters was for the full year of 2010, or it was for the contract period. Ultimately the dollars were identified by the Fire Department to make the necessary cuts to avoid any layoffs, and that is the truth of the matter stated City Manager Enderle.

Mayor Fess added that the Commission was very adamant that they did not want any layoff of City Firefighters. Mayor Fess further stated the Commission has never looked at a Part-time Fire Department that she is aware of.

Mr. Fashner stated all he was doing was asking for a document, a public records request. Mayor Fess stated she is not aware of any such document.

City Manager Enderle stated the document comes from the City Manager's Office, and Mr. Fashner has never made a request for such a document. Mr. Fashner asked the Fire Chief for the document, and the Fire Chief directed Mr. Fashner to the City Manager's Office

Law Director Wall explained the records request is made to the keeper of the record.

Mr. Fashner stated he is requesting the public record, and further stated this is what the recall is about, Mr. Enderle not wanting the public to know anything.

Mayor Fess stated they have not heard any specific reasons for the recall. Mayor Fees further stated she feels Mr. Fashner is way off base calling her a liar, stating that she told Bill Hogston to go out and get another job, which she never said that. In fact what she stated at a Commission Meeting is, "if the firefighters could not be happy here with the wages they are making maybe they should look at another department". Mayor Fess stated she did not mean she wanted any of the firefighters to leave, or that she wanted to get rid of any firefighters, but that the City can pay this much money and are trying to stay within a budget. If they cannot live with that then maybe they should look elsewhere. I would say that not only to the firefighters but also to any employee of the City. If you are not happy with the wages you are getting here you always have the opportunity to go somewhere else.

Mr. Fashner stated all I am asking for is a report," how do I take this document and send it to Mr. Enderle to get the report I am asking for?" City Manager Enderle stated all Mr. Fashner had to do was to call him and tell him he wanted the document, or send an email requesting the document.

Mr. Fashner stated he is here in the public, and is not hiding behind the computer. City Manager Enderle stated if you want a document you have to ask for it. He further stated he will be glad to respond to what the document is but was not going to argue or debate the issue with Mr. Fashner.

Mayor Fess asked Mr. Fashner to take his seat. Mayor Fess further stated Mr. Fashner would get his public document by asking for it the proper way and in the proper place.

Mike Gutmann, Marymont, came forward stating he is a member of the Positively Promoting Piqua group and wanted citizens to know the next meeting is going to be held on Wednesday, January 19, 2011 at 5:00 P.M. at Hartzell Propeller, in the All Hands area, and is open to the public and encouraged citizens to attend.

Commissioner Wilson commented on the Pep Rally held for the Piqua Catholic School to win the Pepsi Challenge and the \$50,000 grant. This is the true character of the people who live in Piqua. Look at the campaign for the new football field that was completed without any tax dollars, and the Neighborhood Associations that have formed and are doing wonderful things where they live, the Salvation Army and the Bethany Center, the Cold Weather Shelter, and the PPP Organization who has been a great help with the issues. We live in a really nice community and we need to remember all the good thing that are being done here, and not the bad things that we sometimes talk about.

Commissioner Vogt thanked retiring Assistant Fire Chief Rick Maggert for his thirty-five plus years of service to the City of Piqua, and congratulated the new Assistant Fire Chief Vincent Ashcraft, and the new Fire Captain John Kendall on their promotions.

Commissioner Vogt stated he attend the Martin Luther King Celebration at the YWCA and thanked them for putting the celebration together.

Commissioner Vogt stated one thing is positive he does not lie. None of the Commissioner's have lied to the public, they do as good as the can with the information they have, said Commissioner Vogt.

Commissioner Terry stated she enjoyed the Martin Luther King Day Celebration program at the YWCA, and congratulated the Johnston Farm and Indian Museum for receiving one of the highest national recognitions from the American Association of Museums. Presently there are only 780 accredited museums out of the 17,500 museums in the nation, and this is something the City of Piqua can be proud of, said Commissioner Terry.

Commissioner Terry asked citizens who are voting for the Piqua Catholic Pepsi Challenge to also go to the \$250,000 category and vote for Team Sanfilippo. Members of our community, Bill and Karen McNeil have two grandchildren who have this disease, and are asking you to help them reach their goal for research for this disease.

Commissioner Terry stated she received several calls concerning the use of absentee ballots, for information citizens can contact the Miami County Board of Elections at 937-440-3900.

Commissioner Terry encouraged citizens to attend the Positively Promoting Piqua Meeting on Wednesday January 19, 2011 at 5:00 P.M.

Commissioner Martin asked if Piqua Catholic Schools had to be number one, or just in the top ten to receive the grant. Commissioner Terry explained the ratings, and how they can still vote several ways.

Commissioner Martin also congratulated Rick Maggert, Vince Ashcraft, and John Kendall.

Commissioner Martin stated he wanted to commend Positively Promoting Piqua for creating a group to positively promote the City we live in; it is one of the best things to happen to Piqua right now.

City Manager Enderle stated he wanted to apologize to Mr. Fashner for mispronouncing his name previously.

City Manager Enderle explained this Commission stated when discussing the Budget they did not want to lay any Firefighters off, and did not want to go to a part-time Fire Department. City Manager Enderle further stated it is his responsibility as City Manager to look at all alternatives which may include layoffs, or possibly going to a part-time Fire Department, or even asking the public for a ¼% tax increase.

City Manager Enderle further explained he had asked the Fire Chief to complete a study on the various aspects of part-time firefighters and several other avenues. The completed study was not adequate and he asked Chief Rindler to do a more through analysis and assigned several other city personnel to help him compile this study. We do not have a problem this year, and are not filling two retirement positions at this time. The information study that the City Manager has is incomplete he feels at this time, but would be glad to give the study to Mr. Fashner or anyone else who wants it. City Manager Enderle explained he is not trying to hide anything from the Commission; and stated he had explained the information in an email to the Commissioners. The last thing we want to do is be caught without having any alternatives, said City Manager Enderle.

Mayor Fess stated we are not the only city having difficulty funding Police and Fire; it is going on all over the United States, and other cities have had to lay off Police and Fire personnel.

Mayor Fess encouraged citizens to move forward and not dredge up the past.

Mayor Fess congratulated the Piqua Catholic Schools and asked citizens to keep voting to help them win the \$50,000 grant.

Mayor Fess also congratulated the Johnston Farm on the honor of being named one of the best Historical Districts in the country; it is something amazing for the City of Piqua. We need to build on all the positive things going on and get over the negativity, and get past what has been going on the past couple of years in the city.

Adjournment

Moved by Commissioner Vogt, seconded by Commissioner Martin, to adjourn from the Regular Piqua City Commission Meeting at 8:35 P.M. Voice vote, Aye: Martin, Wilson, Terry, Fess, and Vogt. Nay: None. Motion carried unanimously.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

ORDINANCE NO. 1-11

AN ORDINANCE AMENDING ORDINANCE NO. 33-66,
RELATING TO THE MUNICIPAL INCOME TAX

BE IT ORDAINED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SECTION 1. Ordinance No. 33-66 as enacted July 5, 1966 and as subsequently amended by Ordinance Numbers 18-67, 26-71, 28-71, 10-76, 67-78, 76-79, 24-83, 36-84, 29-88, 20-89, 84-89, 18-90, 7-97, 34-00, 39-00, 27-02, 20-03, ~~and 22-04~~, and 25-08 is hereby amended to read as follows (with deletions lined out and additions underlined):

Section 1: Purpose

To provide funds for the purposes of permanent improvements, new equipment, extension and enlargement of municipal services and facilities, capital improvements and operating expenses of the City of Piqua, there shall be, and is hereby levied, a tax on income, qualifying wages, commissions and other compensation, net profits, and other taxable income as hereinafter provided.

Section 2: Definitions

As used in this ordinance, the following words shall have the meaning ascribed to them in this Section, except as and if the context clearly indicates or requires a different meaning.

ADJUSTED FEDERAL TAXABLE INCOME – A C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

- a. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
- b. Add an amount equal to five percent (5%) of intangible income deducted under Section (2)(a), but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code;
- c. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;

- d. (1) Except as provided in Section (2)(d)(2) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;
- (2) Section (2)(d)(1) does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the internal Revenue Code.
- e. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- f. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- g. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except;
 - (1) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
 - (2) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in Section 2 shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in this ordinance shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

ADMINISTRATOR – The individual designated by the Director of Finance, with the approval of the City Manager, to administer and enforce the provisions of the ordinance.

ASSIGNMENT – The assignment made by a resident of the City of Piqua of claim for refund due from another taxing municipality granting credit to non-residents thereof.

ASSOCIATION – A partnership, limited partnership, limited liability company (including a single owner LLC), Chapter S corporation as defined in the federal tax code, 26 U.S.C. 1361, or any other form of unincorporated enterprise owned by two or more persons.

BOARD OF REVIEW – The Board created by and constituted as provided in Section 13 of this ordinance.

BUSINESS – An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.

CORPORATION – A corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency, but not including Chapter S corporations.

THE DIRECTOR OF FINANCE – The Director of Finance of the City of Piqua, Ohio.

DOMICILE – The permanent legal residence of a taxpayer. A taxpayer may have more than one residence, but not more than one domicile.

EMPLOYEE – One who works for qualifying wages, commission or other type of compensation in the service of an employer.

EMPLOYER – An individual, partnership, association, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, who or that employs one or more persons on a qualifying wage, commission or other compensation basis.

FISCAL YEAR – An accounting period of twelve (12) months or less ending on any day other than December 31, and used by the taxpayer for Federal Income Tax purposes.

FORM 2106 – The Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

GROSS RECEIPTS – The total revenue derived from sales, work done, or service rendered before any deductions, exceptions or credits are claimed.

INCOME – Shall include all monies derived from any source whatsoever, including but not limited to:

- a. All qualifying wages, commissions, other compensation and other income from whatever source received by residents of Piqua.

- b. All qualifying wages, commission, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in Piqua.
- c. The portion attributable to the city of the net profits of all unincorporated businesses, associations, professions, corporations or other entities from sales made, work done, services performed or rendered, and business or other activities conducted in Piqua.

INTANGIBLE INCOME – Income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. Intangible income does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.

INTERNAL REVENUE CODE – The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

JOINT ECONOMIC DEVELOPMENT DISTRICT – Districts created under the Ohio Revised Code sections 715.70 through 715.83, as amended from time to time.

LIMITED LIABILITY COMPANY – A limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

MUNICIPALITY – The City of Piqua.

NET PROFITS – A net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses, either paid or accrued in accordance with the accounting system used by the taxpayer for Federal Income Tax purposes, without deduction of taxes imposed by this ordinance, federal, state and other taxes based on income; and in the case of an association, without deduction of qualifying wages paid to partners and other owners; and otherwise adjusted to the requirements of this ordinance.

Net profits shall include any amount or value received, realized or recognized in a sale or other disposition of tangible personal property or real property used in business, in excess of book value.

NON-RESIDENT – An individual domiciled outside the City of Piqua.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY – An unincorporated business entity not having an office or place of business within the City of Piqua.

NONQUALIFIED DEFERRED COMPENSATION PLAN – A compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.

PERSON – Every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term “person” as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

PLACE OF BUSINESS – Any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his regular employees regularly in attendance.

QUALIFIED PLAN – A retirement plan satisfying the requirements under Section 401 of the Internal Revenue Code as amended.

QUALIFYING WAGES – Wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code.

RESIDENT – An individual domiciled in the City of Piqua.

RESIDENT UNINCORPORATED BUSINESS ENTITY – An unincorporated business entity having an office or place of business within the City of Piqua.

RULES AND REGULATIONS – Administrative directives promulgated by the Administrator and approved by the Board of Review for the purpose of administering this ordinance.

SCHEDULE C – The Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

SCHEDULE E – The Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

SCHEDULE F – The Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

S CORPORATION – A corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

TAXABLE INCOME – Qualifying wages, and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the ordinance. Please refer to INCOME.

TAXABLE YEAR – The calendar year, or the fiscal year upon the basis of which the net profits are to be computed under the ordinance and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

TAXING MUNICIPALITY – Any municipal corporation levying a municipal income tax on income, qualifying wages, commissions and other compensation earned by individuals, and on the net profits and other taxable income earned from the operation of a business, profession or other activity.

TAXPAYER – A person, whether an individual, partnership, association or any corporation or other entity, required under this ordinance to file a return or pay a tax.

Section 3: Imposition of Tax

- A. Subject to the provisions of Section 16 of this ordinance, an annual tax for the purposes specified in Section 1 hereof shall be imposed at the rate of one and three-fourths percent (1.75%) per annum.

The first one percent (1%) of said tax shall be levied until repealed by this commission; the next one-half percent (.5%) until repealed by the electorate; and the remaining one-fourth percent (.25%) from January 1, 1991 through December 31, ~~2010~~ 2020 and upon:

1. All qualifying wages, commissions, other compensation and other income earned or received during the effective period of this ordinance by residents of the City of Piqua.
2. All qualifying wages, commissions, other compensation earned and other income earned or received during the effective period of this ordinance by nonresidents for work done or services performed or rendered in the City of Piqua.
3.
 - a. The portion attributable to the City of Piqua of the net profits earned or received during the effective period of this ordinance, of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Piqua.
 - b. The portion of the distributive share of net profits earned or received during the effective period of this ordinance of a resident partner or owner of a resident unincorporated business entity not attributable to the City of Piqua and not levied against such unincorporated business entity. Provided, however, that the liability of an individual partner or owner, taxable hereunder on income attributable to another taxing municipality, shall be subject to the Relief and Reciprocity Provisions of Section 15 hereof.

4. a. The portion attributable to the City of Piqua of net profits earned or received during the effective period of this ordinance of all non-resident unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City of Piqua, whether or not such unincorporated business entity has an office or place of business in the City of Piqua.
 - b. The portion of the distributive share of net profits earned or received during the effective period of this ordinance of a resident partner or owner of a nonresident unincorporated business entity not attributable to the City of Piqua and not levied against such unincorporated business entity. Provided, however, that the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality shall be subject to the Relief and Reciprocity provisions of Section 15 hereof.
 5. The portion attributable to the City of Piqua of net profits earned or received during the effective period of this ordinance of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Piqua, whether or not such corporations have an office or place of business in the City of Piqua.
 6. All income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings. Gambling losses are not deductible unless losses are supported by an independent verifiable statement.
- B. The portion of the net profits attributable to the City of Piqua of a taxpayer conducting a business, profession or other activity, both within and without the boundaries of the City of Piqua, shall be determined as provided in Section 718.02 of the Revised Code of Ohio and in accordance with the Rules and Regulations.

C. OPERATING LOSSES

- a. The Municipality does not allow a net operating loss carryback or carryforward.
- b. Losses from federal schedules and other sources reported for federal income tax purposes cannot be used to offset qualifying wages, commissions, other compensation and other taxable income earned or received by residents or nonresidents of the Municipality.

If an individual is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity may be used to offset the profits of another (except any portion of a loss or profit separately reportable for municipal tax purposes to another taxing entity) for purposes of arriving at overall net profits or net operating loss.

D. CONSOLIDATED RETURNS

1. Any affiliated group, which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code, may file a consolidated return with the City of Piqua. However, once the affiliated group has elected to file a consolidated return or a separate return with Piqua, the affiliated group may not change its method of filing in any subsequent tax year without written approval from Piqua.
2. In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City of Piqua, constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City of Piqua. If the Administrator finds net profits are not properly allocated to the City of Piqua by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, the Administrator shall make such allocations as the Administrator deems appropriate to produce a fair and proper allocation of net profits to the City of Piqua.

Section 4: Effective Period

The first one percent (1%) of said tax shall be levied, collected and paid with respect to the income, qualifying wages, commissions and other compensation, and with respect to net profits of businesses, professions or other activities earned from January 1, 1977, and until repealed by this Commission.

The next one-half percent (.5%) of said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned from January 1, 1984 and until repealed by the electorate.

The remaining one-fourth percent (.25%) of said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned from January 1, 1991 through December 31, ~~2010~~ 2020.

Section 5: Return and Payment of Tax

- A. Each taxpayer who engages in business or other activity or whose qualifying wages, commissions, other compensation and other taxable income is subject to the tax imposed by this ordinance, and every resident shall, make and file a return on or before April 15th of each year, whether or not a tax is due. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed by the 15th day of the fourth month from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation in accordance with Rules and Regulations that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the qualifying wages, commissions, other compensation or other income of nonresident employee, and paid by the employer or employers to the Administrator, shall be accepted as the return required of any nonresident employee whose sole income, subject to tax under this ordinance, is such qualifying wages, commissions, other compensation or other income.

The Administrator shall also have authority to require that certain retired individuals may be exempt from this section, providing that no reportable or taxable income exists beyond income exempt from taxation as provided by this ordinance.

- B. The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator, or on a generic form, setting forth:
1. a. The aggregate amount of qualifying wages, commissions, other compensation and other income earned or received; and
 - b. The gross income from a business, profession or other activity less allowable expenses incurred in the acquisition of such gross income;
 - c. Such income shall include only income earned or received during the year, or portion thereof, covered by the return and subject to the tax imposed by this ordinance;
 2. a. The amount of tax imposed by this ordinance on income reported,
 - b. Any credits to which the taxpayer may be entitled under the provisions of Sections 6, 7 and 15 of this ordinance; and
 3. Such other pertinent statements, information returns or other information as the Administrator may require.
 4. A generic form once completed and filed must contain all of the information required to be submitted with Piqua's prescribed returns, reports or documents, and must be in a similar format that will allow processing of the generic forms without altering Piqua's procedures for processing forms. The taxpayer or return

preparer filing the generic form must also otherwise comply with the rules or ordinances of Piqua governing the filing of returns, reports or documents. Determination as to whether a generic form meets this criteria shall be the responsibility of the Administrator.

- C. The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for filing of the Federal Income Tax Return (whichever occurs later). The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due.

No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

- D. 1. The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the balance of tax due, if any, after deducting:
- a. The amount of City of Piqua Income Tax deducted or withheld at the source pursuant to Section 6 hereof;
 - b. Such portion of the tax as has been paid on declaration by the taxpayer pursuant to Section 7 hereof;
 - c. Any credit allowable under the provisions of Section 15 hereof.
2. Should the return, or the records of the Administrator, indicate an overpayment of the tax to which the City of Piqua is entitled under the provisions of this ordinance, such overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or transferred against any subsequent liability. Provided, however, that overpayment of less than five dollars (\$5.00) shall not be refunded.
- E. 1. AMENDED RETURNS. Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 11 and 15. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's City of Piqua tax liability, such taxpayer shall make and file an amended City of Piqua return showing income subject to the City of Piqua

tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

Section 6: Collection at Source

- A. 1. Each employer within or doing business within the City of Piqua who employs one or more persons on a qualifying wage, commission, other compensation or other income basis shall, at the time of payment thereof, deduct the tax of one and three-fourths percent (1.75%) from the qualifying wages, commissions, other compensation or other income earned or received by Piqua residents regardless of where such compensation was earned or received and shall deduct the tax of one and three-fourths percent (1.75%) from the qualifying wages, commissions, other compensation or other income earned or received within Piqua by non-residents;
2. Notwithstanding the provisions of paragraph A. 1. of this Section, where such employer employs a Piqua resident in another taxing municipality requiring such employer to deduct its tax from all employees engaged therein, such employer shall withhold for, and remit to, the City of Piqua only the difference, if any, between the tax imposed by such other taxing municipality and the tax imposed by this ordinance;
3. Each employer shall, on or before the 15th day of the month or quarter following such withholding, make a return and remit to the City of Piqua the tax hereby required to be withheld. Employers shall deposit withholding to the City of Piqua on a monthly basis if the tax liability for the previous year equals or exceeds three thousand dollars (\$3,000.00). Such return shall be on a form or forms prescribed by, or acceptable to, the Administrator and shall be subject to the Rules and Regulations. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have, in fact, been withheld.
4. On or before the 28th day of February following any calendar year, such employer shall file with the Administrator an information return for each employee from whom City of Piqua Income Tax has been, or should have been, withheld, showing the name, address and Social Security number of the employee, the total amount of compensation paid during the year and the amount of City of Piqua Income Tax withheld from such employee.
5. An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.
6. a. An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirements to withhold the tax.

- b. The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.
- B. Such employer, in collecting said tax, shall be deemed to hold the same until payment is made by such employer to the City of Piqua, as a Trustee for the benefit of the City of Piqua and any such tax collected by such employer from his employees shall, until the same is paid to the City of Piqua, be deemed a trust fund in the hands of such employer.
- C. All employers that provide any contractual service within Piqua, and who employ subcontractors in conjunction with that service, shall provide Piqua the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax withholding requirements under this ordinance.
- D. In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.
- E. DOMESTIC SERVANTS. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

Section 7: Declarations

- A. Every person who anticipates any taxable income which is not subject to Section 6 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 3 hereof shall file a declaration setting forth such estimated income of the estimated profit or loss from such business activity, together with the estimated tax due thereon, if any.
- B. 1. Such declaration shall be filed on or before April 15 of each year during the life of this ordinance, except that no penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in Piqua on the first day of January of the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the

- taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period.
2. Those taxpayers reporting on a fiscal year basis shall file a declaration within 15 days of the fourth month after the beginning of each fiscal year or period.
- C.
1. Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator, or on a generic form. Credit shall be taken for Piqua income tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for tax payable to other taxing municipalities in accordance with the provisions of Section 15 hereof.
 2. The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
 3. A generic form once completed and filed must contain all of the information required to be submitted with Piqua's prescribed returns, reports or documents, and must be in a similar format that will allow processing of the generic forms without altering Piqua's procedures for processing forms. The taxpayer or return preparer filing the generic form must also otherwise comply with the rules or ordinances of Piqua governing the filing of returns, reports or documents. Determination as to whether a generic form meets this criteria shall be the responsibility of the Administrator.
- D. The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Administrator at least one-fourth (1/4) of the estimated annual tax due after deducting:
1. Any portion of such tax to be deducted or withheld at the source pursuant to Section 6 hereof;
 2. Any credits allowable under the provisions of Section 15 hereof; and
 3. Any overpayment of previous year's tax liability which taxpayer has not elected to have refunded. Provided, however, the taxpayer may elect to apply any overpayment of previous tax liability to any one or more installments of the estimated annual tax.

At least a similar amount shall be paid on or before the 15th day of the sixth, ninth and thirteenth month after the beginning of taxpayer's taxable year, provided that in case an amended declaration has been duly filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

- E. On or before the 15th day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City of Piqua shall be paid therewith in accordance with the provisions of Section 5 hereof.

Section 8: Duties of the Administrator

- A. 1. It shall be the duty of the Administrator to receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received to the Director of Finance.
2. It shall be the duty of the Administrator to enforce payment of all taxes owed the City of Piqua, to keep accurate records for a minimum of six (6) years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.
- B. Said Administrator is hereby charged with the enforcement of the provisions of this ordinance, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce Rules and Regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this ordinance, including provisions for the re-examination and correction of returns.
- C. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the City of Piqua from the taxpayer and shall send to such taxpayer and tax practitioner a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
- D. Subject to the consent of the Board of Review and pursuant to the Rules and Regulations, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 10 of this ordinance.

Section 9: Investigative Powers of the Administrator Penalty for Divulging Confidential Information

- A. The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal Income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this ordinance, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this ordinance.

Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or the Administrator's duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations are hereby authorized.

- B. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before the Administrator and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and Federal Income Tax returns and the attendance of all persons before the Administrator, whether as parties or witnesses, whenever the Administrator believes such persons have knowledge of such income or information pertinent to such inquiry.
- C. The refusal to produce books, papers, records and Federal Income Tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax, or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this Section or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this ordinance punishable as provided in Section 12 hereof.
- D. Any information gained, as the result of any returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this ordinance shall upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than five hundred dollars (\$500.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City of Piqua who violates the provision of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

- E. Every taxpayer shall retain all records necessary to compute his or her tax liability for a period of six (6) years from the date his or her return is filed, or the withholding taxes are paid.

Section 10: Interest and Penalties

- A. All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the rate of one percent (1%) per month.

B. In addition to interest as provided in paragraph A hereof, penalties based on the unpaid tax are hereby imposed as follows:

1. For failure to pay taxes due, a penalty of one percent (1%) per month with a maximum of twenty-five percent (25%) of the net tax liability and with an annual minimum \$20. The \$20 minimum is waived for first-time filers and if taxes are paid within two weeks of filing.
2. For failure to remit taxes withheld or required to be withheld from employees: Three percent (3%) per month.
3. Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, a failure to file fee of twenty-five dollars (\$25.00) may be assessed.
4. Where the employer has failed to file monthly or quarterly returns by the due dates, a failure to file fee of twenty-five dollars (\$25.00) may be assessed per each return.

C. EXCEPTIONS

1. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator, or filed in accordance with Article VII, Section C of the Rules and Regulations; and provided further, that in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after final determination of the federal tax liability.
2. The city shall not impose any penalty, interest, or other similar assessment or charge against a taxpayer for the late payment or nonpayment of estimated tax liability in either of the following circumstances:
 - (a) The taxpayer is an individual who resides in the city but was not domiciled there on the first day of January of the current calendar year;
 - (b) The taxpayer has timely remitted an amount at least equal to one hundred percent (100%) of the taxpayer's tax liability for the preceding year as shown on the return filed by the taxpayer for the preceding year, provided that the return for the preceding year reflected a twelve-month period and taxpayer filed a return for the preceding year.

D. A return check fee will be assessed in an amount set periodically in the Rules and Regulations promulgated by the Tax Administrator.

- E. Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

Section 11: Collection of Unpaid Taxes and Refunds of Overpayment

- A. All taxes imposed by this ordinance shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amounts are recoverable. Except in the case of fraud, omission of twenty-five percent (25%) or more of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed, whichever is later. In the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all prosecutions to recover Piqua's income taxes and penalties and interest thereon shall be brought within six (6) years after the tax was due or the return was filed, whichever is later. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one (1) year from the time of the final determination of the federal tax liability.
- B. Those officers or employees having control or supervision of, or charged with, the responsibility of filing the return and making payments for a corporation or association shall be personally liable for failure to file the return or pay the taxes and penalties and interest due as required. The dissolution, bankruptcy, or reorganization of any employer does not discharge the officers' or employees' liability for a prior failure of such business to file a return or pay the taxes due.
- C. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.
- D. Amounts of less than five dollars (\$5.00) shall not be collected or refunded.

Section 12: Violations – Penalties

- A. Any person who shall:
 - 1. Fail, neglect or refuse to make any return or declaration required by this ordinance; or
 - 2. Make any incomplete, false or fraudulent return; or

3. Fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance; or
4. Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
5. Refuse to permit the Administrator or any duly authorized agent or employee to examine his or her books, records, papers and Federal Income Tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Administrator and to produce his or her books, records, papers or Federal Income Tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
7. Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
8. Fail to comply with the provisions of this ordinance, the Rules and Regulations or any order or subpoena of the Administrator authorized hereby; or
9. Give to an employer false information as to his or her true name, correct Social Security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City of Piqua tax withheld, or to knowingly give the Administrator false information; or
11. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this ordinance.

Shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six (6) months or both, for each offense.

- B. All prosecutions under this Section must be commenced within three (3) years from the time to the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be six (6) years from the date the return was due or the date the false or fraudulent return was filed.
- C. The failure of any employer or person to receive or procure a return declaration or other required form shall not excuse him or her from making any information return, return or declaration, from filing such form, or from paying the tax.

Section 13: Board of Review

- A. A Board of Review, consisting of the City Manager, who shall act as chairman, and two other individuals, each to be appointed by the Mayor of the City of Piqua, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 9 hereof, with reference to the confidential character of information required to be disclosed by this ordinance, shall apply to such matters as may be heard before the Board of Review.
- B. All Rules and Regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this ordinance, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.
- C. Any person dissatisfied with any ruling or decision of the Administrator, which is made under the authority conferred by this ordinance, may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Administrator provided the taxpayer making the appeal has filed with the City of Piqua the required return or other documents concerning the obligation at issue. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

Section 14: Use of Funds

The total income tax funds collected under the provisions of this ordinance shall be held by the Director of Finance in a separate fund known as the "INCOME TAX FUND" and shall be deposited in a separate account, or accounts, in such bank or banks, as the Director in his or her sole discretion may decide.

Relating to the first one percent (1%), not less than twenty-eight percent (28%) shall be used for the construction, operation and maintenance of streets, including the draining thereof. Not less than twenty-one percent (21%) shall be used for permanent improvements and operation of the Safety Department. Not less than seven percent (7%) shall be used for permanent improvements and operation of City parks. Not more than forty-four percent (44%) shall be used for General Fund purposes, other than those listed above, and for the purpose of paying the cost of collecting the tax levied by this ordinance and the cost of administering and enforcing the provisions thereof.

The funds collected under the provisions of this ordinance relating to the next one-half percent (.5%) levy in excess of one percent (1%) shall be used entirely for capital and operating needs of police, fire and public safety-related services.

The funds collected under the provisions of this ordinance relating to the remaining one-fourth percent (.25%) levy shall be used entirely for the construction, reconstruction and resurfacing of streets and alleys, including the installation, maintenance and reconstruction of storm drainage lines, manholes and catch basins.

Section 15: Relief and Reciprocity Provisions

It is the intent of this section that a taxpayer, subject to tax in more than one municipality on the same income, who has complied with the provisions hereof, shall not be required by this ordinance to pay a total municipal income tax on such income greater than the tax imposed at the higher rate.

- A. When a resident of Piqua is subject to and has paid, or has acknowledged liability for, a municipal income tax in another municipality on the same income taxable under this ordinance, and such other municipality does not allow a credit to its non-residents, such Piqua resident may claim a credit of the amount of such tax paid to such other municipality, but not in excess of the tax assessed by this ordinance.
- B. The City of Piqua shall grant a credit against the tax imposed by this ordinance to every taxpayer who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code. The credit shall not exceed the tax assessed by this ordinance on such income earned in such joint economic development zone or joint economic development district where such tax is paid.

Section 16: Saving Clause

If any sentence, clause, section or part of this ordinance, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this ordinance. It is hereby declared to be the intention of the Commission of the City of Piqua that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 17: Exclusions From Taxation

The provisions of this Ordinance shall not be construed as levying a tax upon the following:

- A. Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the National Guard.
- B. Poor relief, pensions, including Social Security benefits, unemployment compensation or similar payments, including disability benefits received from private industry or local, state or federal governments, or from charitable, religious or educational organizations.
- C. Alimony received
- D. Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations.
- E. Any charitable, educational, fraternal or other type of non-profit association or organization enumerated in Section 718.01 of the Revised Code of Ohio, which is exempt from payment of real estate taxes, is exempt from payment of the tax imposed by this ordinance.
 - a. Any association or organization falling in the category listed in the preceding paragraph not exempt from the payment of real estate taxes is required to file declarations and final returns and remit the taxes levied under this ordinance on all business activities of a type ordinarily conducted for profit by taxpayers operating for profit.
 - b. Where such non-profit association or organization conducts income-producing business, both within and without the corporate limits, it shall calculate its profits allocable to the City of Piqua under the method or methods provided above.
- F. Any association, organization, corporation, club or trust, which is exempt from federal taxes on income by reason of its charitable, religious, educational, literacy, scientific, etc. purposes.
- G. Gains from involuntary conversion and capital gains, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State of Ohio, as of the date of enactment of Ordinance 33-66 (being 7/5/66), and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- H. Earnings and income of all persons 17 years of age and under. Earnings and income will be taxable for the portion of the year after which they become 18.

- I. Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation. The minister must be duly ordained, commissioned or licensed by a religious body constituting a church or church denomination.
- J. Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually.
- K. Intangible income.
- L. The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of the Ohio Revised Code:
 - a. The income of an electric company or combined company;
 - b. The income of a telephone company.

As used in Section 17 (L) of this ordinance, "combined company", "electric company", and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.
- M. The City of Piqua shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the City of Piqua on twelve (12) or fewer days in a calendar year unless one of the following applies:
 - a. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.
 - b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the City of Piqua.

Section 18: Collection of Tax After Termination of Ordinance

- A. This ordinance shall continue effective insofar as the levy of taxes is concerned until repealed by the electorate, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this ordinance are concerned, it shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and

prosecutions for the collection of said taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in Sections 11 and 12 hereof.

- B. Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Sections 5 and 6 of this ordinance as though the same were continuing.

SECTION 2: Ordinances 33-66, 18-67, 26-71, 28-71, 10-76, 67-78, 76-79, 24-83, 36-84, 29-88, 20-89, 84-89, 18-90, 7-97, 34-00, 39-00, 27-02, 20-03, ~~and 22-04~~, and 25-08 as previously enacted, are hereby repealed;

SECTION 3: This Ordinance shall take effect and be in force beginning January 1, ~~2009~~ 2011.

1st Reading 1-4-2011

2nd Reading 1-18-2011

PASSED: _____

LUCINDA L. FESS, MAYOR

ATTEST: _____

REBECCA J. COOL
CLERK OF COMMISSION

RESOLUTION NO. R-11-11

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT WITH THE BOARD OF MIAMI
COUNTY COMMISSIONERS FOR THE DESIGN, RIGHT-OF-WAY
AND CONSTRUCTION OF THE COUNTY ROAD 25-A PHASE II
RECONSTRUCTION PROJECT**

WHEREAS, the City of Piqua and the Board of Miami County Commissioners desire to complete a reconstruction project on County Road 25-A from Country Club Road to Looney Road; and

WHEREAS, portions of the project area lie within the corporation limits of the City of Piqua, and portions of the project lie beyond the corporation limits of the City of Piqua, being located in Springcreek Township, Miami County, Ohio and being under the jurisdiction of the Miami County Commissioners.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: The City Manager is hereby authorized to enter into an agreement with the Board of Miami County Commissioners (attached Exhibit "A") for the design, right-of-way and construction of the County Road 25-A Reconstruction Project.

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

EXHIBIT “A”

AGREEMENT TO COOPERATE (ORC 307.15)

COUNTY ROAD 25-A PHASE II RECONSTRUCTION PROJECT

THIS AGREEMENT is entered into as of _____, 2011, pursuant to Section 307.15 of the Ohio Revised Code, by and between the City of Piqua, Ohio (“City”) and the Board of County Commissioners of Miami County, Ohio (“County”), under the following circumstances:

WHEREAS, the parties hereto desire to complete a reconstruction project, namely County Road 25-A from Country Club Road to Looney Road; and

WHEREAS, it will be necessary to contract with Consulting Engineer(s) to design and prepare plans for the project; and

WHEREAS, the parties hereto have initiated a request for funding for the project from the Federal Highway Administration (FHWA), said funds being administered through the Ohio Department of Transportation (ODOT); and

WHEREAS, the parties hereto intend to initiate a request for partial funding for the project from the Ohio Public Works Commission (OPWC); and

WHEREAS, additional local funding from the parties hereto may be required for the completion of the project; and

WHEREAS, the purchase of temporary and permanent right-of-way may be necessary for proper completion of the project; and

WHEREAS, portions of the project area lie within the corporation limits of the City of Piqua, and portions of the project area lie beyond the corporation limits of the City of Piqua, being located in Springcreek Township, Miami County, Ohio and being under the jurisdiction of the Miami County Commissioners;

NOW THEREFORE, in consideration of the above recitals and in consideration of the mutual promises hereinafter contained, the City and the County agree as follows:

1. The City and County will cooperate in securing FHWA funding for the project, through the Miami Valley Regional Planning Commission and ODOT. The City of Piqua will act as lead agent in procuring said funds.
2. The City and the County will cooperate in securing OPWC funding and cooperate in the execution of all needed legal instruments to ensure completion of the project as planned. The City of Piqua will be the Administrator and the Applicant of the project.
3. The City and County agree that the City Engineer is hereby appointed as agent for the City and for the County, in making official request for Ohio Public Works Commission (OPWC) Funds for the project.
4. The City will contract with the Consulting Engineer(s) and the associated fees shall be shared by the City and the County, with the City paying 1/2 of the cost and the county paying 1/2 of the cost. The City will enter into the agreement(s) with the Consulting Engineer(s) and will pay the Consultant(s) directly. The City will invoice the County for their portion of work completed and the County will reimburse the City accordingly.
5. All fees associated with the appraisals, negotiations and purchases of project related right-of-way shall be incurred by the City for right-of-way parcels which are within the corporation limits of the City, and all fees associated with the appraisals, negotiations and purchases of project related right-of-way shall be incurred by the County for right-of-way parcels which are outside of the corporation limits of the City.

6. All construction costs which are not paid for by the FHWA or the OPWC shall be shared by the County and the City as it is realized that funding may not be secured to cover the entire cost of the project. The City will be responsible for paying for all work that occurs within the corporation limits of the City and the County will be responsible for paying for all work that occurs outside of the corporation limits of the City.
7. All matters related to the implementation of this AGREEMENT and the discharge of duties and responsibilities of each of the parties hereunto pursuant to its terms and conditions shall be affected and completed in full compliance with any and all applicable laws and regulations, State, Federal, and local.
8. This document and AGREEMENT, and the terms and conditions set forth herein in addition to the terms and conditions required by the successful funding sources, without reference to any material, document, or information outside the boundary of the same, shall constitute the full and complete agreement in these regards by and among the parties hereto, and shall create by and among the same only the relationship, obligations, and commitments expressly set forth herein and imposed hereby.
9. To the extent that such action may be permitted by law, the parties hereto covenant and agree to hold harmless each other with respect to this AGREEMENT or any action or omission related thereto.
10. The Agreement may be amended, but only by a written document signed by all parties hereto.

IN WITNESS WHEREOF, the City has executed this Agreement under the authority of Resolution No. _____, passed on the _____ day of _____, 2011; The County has executed this Agreement by its County Commissioners under the authority of Resolution No. _____ passed on the _____ day of _____, 2011. This Agreement is to be effective as of the date set forth on the first page although the parties have actually signed the dates set forth opposite their respective signatures.

CITY OF PIQUA, OHIO

Date: _____

By: _____
Frederick E. Enderle, City Manager

BOARD OF COUNTY COMMISSIONERS
OF MIAMI COUNTY, OHIO

Date: _____

By: _____
Ron Widener, President

John F. Evans, Vice President

John W. O'Brien

APPROVED AS TO FORM:

Stacy M. Wall, Law Director
City of Piqua

Gary Nasal
Prosecuting Attorney
Miami County



CITY COMMISSION MEETING REPORT

For the Regular Meeting of February 1, 2011

TO: Fred Enderle, City Manager

FROM: Amy Havenar, City Engineer

SUBJECT: Agreement with the Miami County Commissioners for the Design, Right-of-Way and Construction of the County Road 25-A Phase II Reconstruction Project

PURPOSE:

Request for City Commission authorization to enter into an agreement with the Miami County Commissioners to establish the costs associated with the design, right-of-way and construction of the County Road 25-A Phase II Reconstruction Project.

RECOMMENDATION:

Approval of the Resolution to allow for the City Manager to enter into an agreement with the Miami County Commissioners for the design, right-of-way and construction of the County Road 25-A Phase II Reconstruction Project.

BACKGROUND:

The County Road 25-A Phase II Reconstruction Project is scheduled for construction in 2013 with the design and right-of-way beginning in early 2011. The project will consist of the reconstruction of County Road 25-A from Country Club Road to Looney Road and will include new granular base, asphalt pavement, concrete curb & gutter, sidewalks and the installation of new storm sewer.

Portions of the project area lie within the corporation limits of the City of Piqua, and portions of the project area lie beyond the corporation limits of the City of Piqua, being located in Springcreek Township, under the jurisdiction of the Miami County Commissioners. The breakdown of the right-of-way on the project is 50% of the project is within the City of Piqua corporation limits and 50% of the project falls outside of the City of Piqua corporation limits. Therefore, all costs associated with the engineering design of the project will be split 50/50 between the City of Piqua and Miami County.

All costs associated with the appraisals, negotiations and purchases of project related right-of-way shall be incurred by the City for right-of-way parcels which are within the corporation limits of the City, and all fees associated with the appraisals, negotiations and purchases of project related right-of-way shall be incurred by the County for right-of-way parcels which are outside of the corporation limits of the City of Piqua.

ALTERNATIVES:

- 1) *Approve the Resolution to enter into an agreement with the Miami County Commissioners for the Design, Right-of-way and Construction of the County Road 25-A Phase II Reconstruction Project.*
- 2) *Do not approve the Resolution and do not complete the County Road 25-A Reconstruction Project.*

DISCUSSION:

The Engineering design is programmed with the Ohio Department of Transportation to begin in 2011, with the right-of-way following shortly thereafter. The construction is scheduled for 2013.

The project will be similar in scope to that of the first phase of the County Road 25-A Reconstruction project (Main Street Bridge to Country Club Road) which was completed in 2008. County Road 25-A from the Main Street bridge to Looney Road was originally programmed as one project. However, due to the escalating construction costs, the project was broken down into two phase. County Road 25-A Reconstruction – Phase I included the reconstruction of County Road 25-A between the Main Street bridge and Country Club Road.

All of the previous design information will be made available to the selected consulting firm to use at their discretion.

FINANCIAL IMPACT:

The City has received a total of \$2,046,000 in grant money for the construction from the Federal Highway Administration through the Miami Valley Regional Planning Commission. The total project cost, excluding right-of-way, is estimated to be approximately \$3.1 million. The City has also applied for grant money through the Ohio Public Works Commission to help offset some of the local share portion of the project.

A total of \$80,000 was budgeted in the 2011 Budget to pay for the Engineering Design and \$70,000 was budgeted in the 2011 Budget to hire a Right-of-Way Consultant to begin the acquisition process.

COMMUNITY IMPACT:

The community has stressed the importance of improving the condition of the streets throughout the City. The reconstruction of County Road 25-A will greatly enhance the aesthetics and the drivability of this roadway. County Road 25-A is one of the major entrances to the City. This portion of County Road 25-A has an average daily traffic of approximately 15,300 vehicles/day.

The improvements planned for this section of County Road 25-A will build upon the improvements already made to the portion of County Road 25-A from Country Club Road to the Main Street bridge.

CONFORMITY TO CITY PLANS & POLICIES:

As stated in the Comprehensive Plan Update, one of the main goals is to improve the entrances to the City. The reconstruction of County Road 25-A will achieve just that. This project is part of the Ten Year Plan for major capital improvement projects.

RESOLUTION NO. R-12-11

**A RESOLUTION AWARDDING A CONTRACT FOR
THE PURCHASE OF A CASE 580SN LOADER
BACKHOE FOR THE POWER SYSTEM**

WHEREAS, the present operations of the City require the purchase of a Case 580SN loader backhoe for the Power System; and

WHEREAS, after solicitation by The Ohio Department of Administrative Services, bids were received through the State Cooperative Purchasing Program, resulting in the lowest, responsible bid from Southwestern Equipment Co., Inc.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: A contract for the purchase of a Case 580SN loader backhoe from Southwestern Equipment Co., Inc. is hereby approved as the lowest, responsible bidder and the City Manager is hereby authorized to execute a contract with said bidder pursuant to contract specifications.

SEC. 2: The Finance Director is hereby authorized to draw her warrants on the appropriate account of the City treasury in payment according to contract terms, not exceeding a total of \$67,500.

SEC. 3: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION



CITY COMMISSION MEETING REPORT

For the Regular Meeting of February 1, 2011

TO: Fred Enderle, City Manager

FROM: Bill Wheelock, Power Plant Manager

SUBJECT: Backhoe Replacement

PURPOSE:

Approve the Resolution No. R-12-11 authorizing the City Manager to enter into a contract with Southwestern Equipment Co., Inc. for the purchase of a Case 580SN loader backhoe.

RECOMMENDATION:

Approve Resolution No. R-12-11 authorizing the City Manager to enter into a contract with Southwestern Equipment Co., Inc. for the purchase of a Case 580SN loader backhoe.

BACKGROUND:

The new Case 580SN Loader Backhoe will replace E-52, Serial Number JJGO271478. E-52 is a Case 580SL backhoe. E-52 was purchased in 1999 and currently has 2,610 hours. Overall, E-52 is in fair condition. The power system is replacing E-52 due to increased maintenance costs.

ALTERNATIVES:

- 1) Approve Resolution No. R-12-11 awarding the contract for purchase of the needed vehicle at a not to exceed cost of \$67,500.
- 2) Delay the purchase of the vehicles.
- 3) Do not approve the Resolution and provide staff with further direction.

DISCUSSION:

The replacement of E-52 will reduce maintenance costs, decrease vehicle downtime and improve the overall efficiency of our operations. The approval of Resolution No. R-12-11 will allow the Power System to continue with their vehicle replacement program. In addition, it will allow the Power System to maintain the safety and reliability of their vehicle fleet.

A possible alternative is to delay the purchase of the backhoe. This delay will mean that the current vehicle will have additional sunk costs in maintenance to assure the proper working condition.

The final alternative is to reject Resolution No. R-12-11. The benefit will be a savings of \$67,500 to the power system. However, maintenance and downtime will continue to increase. The vehicle will need to be replaced in the future, which subjects it to additional inflated costs.

FINANCIAL IMPACT:

Included in the Power System's 2011 budget is \$70,000 to replace E-52, a 1999 Case 580SL backhoe. Resolution No. R-12-11 has a not to exceed cost of \$67,500, which is below budget.

COMMUNITY IMPACT:

The approval of Resolution No. R-12-11 will provide the Power System with essential equipment, which is necessary in providing our community with excellent service and reliability.

CONFORMITY TO CITY PLANS & POLICIES:

The Power System participates in Ohio's Cooperative Purchasing Act. In the past several years, the Power System has purchased vehicles utilizing this process and has been completely satisfied with these purchases.

RESOLUTION NO. R-13-11

**A RESOLUTION AWARDING A CONTRACT
FOR THE PURCHASE OF TRANSFORMERS
FOR THE POWER SYSTEM**

WHEREAS, the present operations of the City require the purchase of transformers for the Power System; and

WHEREAS, after proper advertisement, bids were opened resulting in the tabulation of bids as listed in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: A contract with Ermco for the purchase of 8 transformers is hereby approved as the lowest, responsible bidder for said project and the City Manager is hereby authorized to execute a contract with said bidder pursuant to contract specifications;

SEC. 2: The Finance Director is hereby authorized to draw her warrants from time to time on the appropriate account of the city treasury in payment according to contract terms, not exceeding a total of \$96,786.

SEC. 3: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION



CITY COMMISSION MEETING REPORT

For the Regular Meeting of February 1, 2011

TO: Fred Enderle, City Manager

FROM: Nicholas Berger, Electrical Engineer

SUBJECT: Transformer Purchases

PURPOSE:

Approve the Resolution No. R-13-11 awarding a contract for the purchase of transformers for the Power System. Resolution R-13-11 is needed to restock the Power System's transformer inventory that has been reduced throughout the previous year's activity.

RECOMMENDATION:

Approve the Resolution No. R-13-11 awarding Ermco a contract for the purchase of a total of eight (8) transformers.

BACKGROUND:

Each year the Power System solicits bids to replenish inventory. Bids were received from three vendors for transformers of various sizes, voltages, and quantities on January 10, 2011. As is our standard procedure, the bids were evaluated on a present value basis for the total cost to own and operate over a twenty-five year expected life. This evaluation considers not only the initial cost but also the operational cost associated with the transformer core and winding losses.

ALTERNATIVES:

- 1) Approve Resolution No. R-13-11 awarding the contract for purchase of transformers for the power system at a cost not to exceed \$96,786.
- 2) Revise the quantity of transformers to order.
- 3) Do not approve the Resolution and provide staff with further direction

DISCUSSION:

The lowest and best bids were received from Wesco and Ermco. Transformer bid result sheets are attached for these transformers. Ermco was the successful bidder for eight transformers totaling \$96,786. The Power System is requesting authorization to purchase eight transformers from Ermco for a not to exceed price of \$96,786. In addition, a Purchase Order has been issued to Wesco for two transformers totaling \$11,304.

The approval of Resolution No. R-13-11 will allow the Power System to replenish inventory supply for the needed transformers. It will also allow the Power System to maintain a minimum amount of transformers for the potential of new customers and emergency situations.

A possible alternative is to revise the quantity of transformers to order. The benefit to this alternative is that it has a possibility to reduce the overall cost. However, the Power System has taken into account many factors including the current inventory levels, the potential additions of new customers, and upcoming projects and from this information the Power System has determined the best number of each transformer to order.

The final alternative is to reject this Resolution No. R-13-11. The benefit will be a savings of \$96,786 to the power system. However, inventory numbers will diminish, which leads to the potential of using oversized or undersized transformers. An oversized transformer will increase system losses, which will affect revenues. An undersized transformer has the potential of damaging the transformer, reduce the life of the transformer, and affect the voltage to the customer.

FINANCIAL IMPACT:

Included in the 2011 Power System budget is \$150,000 for distribution transformer purchases. Resolution No. R-13-11 has a not to exceed price of \$96,786, which is below budget.

COMMUNITY IMPACT:

The approval of Resolution No. R-13-11 will provide the Power System with essential equipment, which is necessary in providing our community with excellent service and reliability.

CONFORMITY TO CITY PLANS & POLICIES:

As is our standard procedure, the bids were evaluated on a present value basis for the total cost to own and operate over a twenty-five year expected life. This evaluation considers not only the initial cost but also the operational cost associated with the transformer core and winding losses.

2011 Transformer Summary

Item No.	Size KVA	Conventional or Pad-Mount	1 or 3 Phase	Primary Voltage	Secondary Voltage	Vendor	Manufacturer	Purchase Price	Quantity	Total Price
14	300	Pad-Mount	3	7620/13200 Wye	277/480	ERMCO	ERMCO	\$8,999.00	2	\$17,998.00
15	500	Pad-Mount	3	7620/13200 Wye	277/480	ERMCO	ERMCO	\$10,772.00	4	\$43,088.00
16	1000	Pad-Mount	3	7620/13200 Wye	277/480	ERMCO	ERMCO	\$17,850.00	2	\$35,700.00

Total:	\$96,786.00
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*Piqua Power System
Transformer Bid Results*

Date: 1/10/2011

Evaluated By: Nick Berge

Size: 1000 KVA

Primary Voltage:

2400/4160 X 7620/13200
7620/13200 X

Secondary Voltage:

120/240
120/208
277/480 X
240/480
2400/4160

Transformer Type:

Conventional

Padmount X

Single Phase

Three Phase X

Quantity: 2

	Vendor	Manufacturer	Purchase Price	Evaluated Cost
1	ERMCO	ERMCO	\$17,850.00	\$47,558.38
2	PLS	Howard	\$15,133.00	\$55,156.96
3	WESCO	ABB	\$13,429.00	\$56,794.07
	PEPCO BID RECEIVED TOO LATE FOR CONSIDERATION			

Lowest and Best Bid:

Vendor: ERMCO

Total Cost: \$35,700.00

Date: 1/10/2011 Evaluated By: Nick Berge

2400/4160

X

\$17,998.00

*Piqua Power System
Transformer Bid Results*

Date: 1/10/2011

Evaluated By: Nick Berge

Size: 500 KVA

Primary Voltage:

2400/4160 X 7620/13200
7620/13200 X

Secondary Voltage:

120/240
120/208
277/480 X
240/480
2400/4160

Transformer Type:

Conventional _____ Padmount X

Single Phase _____ Three Phase X

Quantity: 4

	<i>Vendor</i>	<i>Manufacturer</i>	<i>Purchase Price</i>	<i>Evaluated Cost</i>
1	ERMCO	ERMCO	\$10,772.00	\$26,808.51
2	PLS	Howard	\$9,519.00	\$32,142.20
3	WESCO	ABB	\$7,258.00	\$33,292.32
	PEPCO BID RECEIVED TOO LATE FOR CONSIDERATION			

Lowest and Best Bid:

Vendor: ERMCO

Total Cost: \$43,088.00